

**REGULAR CITY COUNCIL MEETING
FRISCO MUNICIPAL COMPLEX
8750 MCKINNEY ROAD
COUNCIL CHAMBERS
FRISCO, TEXAS 75034
5:30 P.M.**

October 7, 2003

MINUTES

1. Call to Order

Mayor Simpson called the Meeting to order at 5:30 p.m. and announced a quorum was present.

Those present representing the Council were: Mayor Simpson, Mayor Pro-Tem Maso, Deputy Mayor Pro-Tem Lafata, Council member Allen, Council member West, Council member Joyner, and Council member Felker.

Those present representing Staff were: City Manager George Purefoy, Deputy City Manager Henry Hill, Assistant City Manager Scott Young, Assistant City Manager Jason Gray, Director of Planning & Development John Lettelleir, Director of Engineering Cissy Sylo, Director of Parks & Recreation Rick Wieland, City Attorney Julie Fort, City Secretary Nan Parker.

2. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code Section 551.087.

Council member Joyner moved to recess into Closed Session at 5:30 p.m. Council member West seconded the Motion. Motion carried. Vote: 6-0.

Mayor Simpson announced the Council was in Closed Session at 5:30 p.m. in compliance with Section 551.001 et. seq. Texas Government Code Section 551.087, to wit:

1. Deliberation regarding commercial or financial information that the City has received from a business prospect and to deliberate the offer or other incentives to a business prospect.
2. Section 551.072. To deliberate the purchase, exchange, lease or value of real property located:
 - A. South of Eldorado Parkway, north of Stonebrook Parkway, east of Teel Parkway, and west of SH 289;
south of FM 3537, north of Warren Parkway, east of Dallas North Tollway, and west of Hillcrest Road.
 - B. Section 551.071. Meeting with City Attorney regarding a matter(s) in which the duty of the City Attorney under the Texas Disciplinary

rules of Professional Conduct of the State Bar of Texas conflicts with the Open Meetings Act regarding:

- C. Boundary issues with McKinney and The Colony, and,
- D. Cause No. 5-643-02; City of Frisco, Texas vs. H. Roger Lawler and Frisco Master Plan, L.P., in County Court at Law No. 5, Collin County, Texas, and
- E. City's underground utility ordinance

3. Reconvene into Regular Session and take any action necessary as a result of the Closed Session.

Deputy Mayor Pro-Tem Lafata moved to reconvene into Regular Session. Council member Joyner Seconded the Motion. Motion carried. Vote: 5-0. There was no action taken as a result of the Closed Session.

4. Proclamations.

Mayor Simpson presented Proclamations to the following:

Chamber of Commerce Week
Chase Brown, Miss Teen Texas
Gunstream Water Rescue
RoughRiders Inaugural Season

5. Invocation.

Pastor Jim Johnson, Preston Trails Community Church, led the prayer.

6. Pledge of Allegiance.

7-8 year old cheerleaders for the Texas Red Raiders led the audience in the Pledge of Allegiance.

7. Citizen Input. (To begin approximately at 7:30 p.m.)

There was no one present to address the Council.

8. Reports.

- a) Introduction of Leadership Frisco Class 7 for 2003-04 – Mayor Pro-Tem Maso introduced the Leadership Frisco Class No. 7.
- b) FEDC Recognition for CEDA Award – Jim Gandy, President of the Frisco Economic Development Corporation was recognized for the CEDA Award. (Community Economic Development Award)
- c) Parks and Recreation Monthly Report – presented by Rick Wieland. Dudley Raymond gave a presentation on the Urban Forestry Board.
- d) Engineering Monthly Report – Presented by Cissy Sylo.
- e) Planning & Development Monthly Report - Presented by John Lettelleir.
- f) School Safety (Engineering) – Presented by Brian Moen.

g) Project Status Tracking Reports – Presented by Jason Gray.

Discussion only, no formal action was taken.

9. Consent Agenda: The Consent Agenda was considered for approval.

Council member Allen moved to approve the Consent Agenda, excluding 9F Council member West seconded the Motion. Motion carried. Vote: 6-0.

A) Approval of the minutes of the September 16, 2003 Regular City Council Meeting and the Minutes of the August 19, 2003 HHPA Meeting. (City Secretary)

B) Acceptance of a letter of resignation of Garriet Blair from the Frisco Economic Development Corporation Board. (City Secretary)

C) Acceptance of letter of resignation for Planning and Zoning Board for Fred Pascarelli. (City Secretary)

D) Award of bid number 0309-088 and act upon adoption of **Resolution No. 03-10-182R** authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Riverway Contractors & Management, Inc. for construction services for Frisco Square, Phase I in the amount of \$795,859.64. (Engineering)

E) Adoption of **Resolution No. 03-10-183R** authorizing the City Manager to enter into an Interlocal Agreement by and between the City of Frisco Police Department and the Criminal District Attorney of Denton County regarding the sharing of assets seized and forfeited under Chapter 59 of the Texas Code of Criminal Procedures. (Police)

F) Adoption of Resolution authorizing the City Manager to execute an Amendment to the Interlocal Agreement with the Collin County Community College District for Operations of Alumni Hall Recreation Center and the Natatorium. (Administrative Services)

There was separate discussion regarding the Amendment to the Interlocal Agreement with the Collin County Community. Following discussion, Council member Felker moved to adopt **Resolution 03-20-184R** therein authorizing the City Manager to execute an Amendment to the Interlocal Agreement with the Collin County Community College District for Operations of Alumni Hall Recreation Center and the Natatorium subject to: "change in the agreement to reflect p.m. rather than a.m." Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

G) Adoption of **Resolution 03-10-185R**, authorizing the Mayor to enter into an Interlocal Cooperation Agreement with Denton County for safety improvements at the intersection of FM 720, FM 423, and Kings Road. (Engineering)

H) Approval of bid number 0308-087 and adoption of **Resolution 03-10-186R** authorizing the City Manager to enter into an Agreement for Construction Services

for Azalea Lane, Maple Street, and Mimosa Road with McMahon Contracting in the amount of \$1,239,155.00. (Engineering)

I) Adoption of **Resolution 03-10-187R** authorizing the City Manager to enter into a Construction and Maintenance Agreement with The Burlington Northern and Santa Fe Railway Company for the grade crossing at Main Street. (Engineering)

J) Award of bid number 0308-085 and act upon adoption of **Resolution 03-10-188R** authorizing the City Manager to enter into an Agreement for Construction Services for Ballpark Landscape and Plaza improvements with American Civil Constructors for \$694,603.98. (Engineering)

K) Adoption of **Resolution 03-10-189R** authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Oncor Electric Delivery Company for Encroachment on Easement, within limits of Creekside at Preston, Phase II. (Engineering)

L) Approval of a Change Order for overtime cost incurred by Site concrete, Inc., associated with the completion of Coit Road in advance of the August 18th deadline in the amount of \$7,833.00. (Engineering)

M) Approval of Change Order Number 1 to Ed Bell Construction Company, in the amount of \$78,777.81 for Legacy Drive Paving and Drainage and 16-inch Waterline (between Chippewa Trail and Dallas North Jetport). (Engineering)

N) Approval of Change Order Number 1 to TGR Constructors, Inc., in the amount of \$1,550.00 for Stonebriar Creek Estates Waterline, Phase 1. (Engineering)

O) Award of bid to Construction and Utility Support Group, L.L.C. in the amount \$206,035.00 and adopt **Resolution 03-10-190R** authorizing the City Manager to enter into an Agreement for Construction Services for Traffic Signals at Main St./Teel Rd. and Lebanon Rd./Parkwood Blvd. (Engineering)

P) Approval of payment of Section 380 Sales Tax Grant to Dayton Hudson Corporation in the amount of \$17,676.01 for the 3rd Quarter of Fiscal Year 2003. (Finance)

Q) Approval of payment of Section 380 Sales Tax Grant to Briar Preston Ridge Partners, L.P. in the amount of \$56,680.19 for the 3rd Quarter of Fiscal Year 2003. (Finance)

R) Approval of Property Tax Refunds over \$500.00. (Finance)

S) Adoption of **Ordinance No. 03-10-90** naming the new Senior Adult Center "Senior Center at Frisco Square." (Parks and Recreation)

T) Approval of recommendation from the Frisco Community Development Corporation to accept Change Order 1 from Dean Electric, Inc. d/b/a Dean

Construction to adjust the construction contract amount from \$4,108,599.14 to \$4,140,178.14 for Frisco Commons. (Parks and Recreation)

U) Acceptance of Change Order Number 1 from Hardscape Construction Specialties for a net change of \$0.00 to the contract amount and the addition of seventeen (17) days to the contract time for Old Orchard Park. (Parks and Recreation)

V) Approval of a contract in the amount of \$25,000.00 for professional services with Fugro South Inc. for Frisco Commons and adoption of **Resolution 03-10-191R**, authorizing the City Manager to sign the agreement. (Parks and Recreation)

W) Adoption of **Resolution 03-10-192R** authorizing the City Manager to enter into an amendment of the Interlocal Agreement by and between the City of Frisco and the City of Prosper for Dispatching Service. (Police)

Regular Agenda:

10. Continuation of Public Hearing: Zoning Case Z03-0017, A request to amend Planned Development-28-Retail and Planned Development-28-Multifamily-1 to Planned Development-28-Retail-Office-2 and Planned Development-28-Office-2 on 26.2± acres located on the east side of the Dallas Parkway 900+ feet north of Warren Parkway. Zoned Planned Development-28-Retail and Planned Development-28-Multifamily-1. Neighborhood #30. Applicant(s): Sealy Co. Tabled 09/02/03 (Planning & Development)

Mayor Pro-Tem Maso moved to remove the item from the table. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0. Mr. Lettelier suggested the Council accept the applicant's letter to withdraw their application.

Mayor Pro-Tem Maso to accept the withdraw of the application. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

11. Consider and act upon adoption of a Resolution authorizing the City Manager to enter into an Assignment of Reclaimed Water Use Agreement by and between the City of Frisco and National Realty Sub, L.P. (City Manager)

Deputy Mayor Pro-Tem Lafata moved to adopt **Resolution No. 03-10-193R** therein authorizing the City Manager to enter into an Assignment of Reclaimed Water Use Agreement by and between the City of Frisco and National Realty Sub, L.P. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

12. Consider and act upon adoption of a Resolution authorizing the City Manager to enter into a Development Agreement by and between the City of Frisco and Stonebriar Dealership Property, L.P. (City Manager)

Mayor Pro-Tem Maso moved to adopt **Resolution No. 03-10-194R** therein authorizing the City Manager to enter into a Development Agreement by and

between the City of Frisco and Stonebriar Dealership Property, L.P. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

13. Consider and act upon adoption of a Resolution authorizing the City Manager to enter into an Agreement by and between the City of Frisco and the Frisco Association for the Arts. (City Council/MM)

Mayor Pro-Tem Maso stepped down from the table due to a potential conflict of interest.

Deputy Mayor Pro-Tem Lafata moved to adopt **Resolution No. 03-10-195R** therein authorizing the City Manager to enter into an Agreement by and between the City of Frisco and the Frisco Association for the Arts. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

14. Discussion regarding the appointment process for boards and for filling vacancies mid-term. (City Secretary)

Discussion only, no formal action was taken.

15. Consider and act upon the appointment of a qualified citizen to the Frisco Economic Development Corporation Board to fill the existing vacant position and complete the unexpired term. (City Council/BA)

Council member Allen nominated Ray Smith. Council member West moved to close nominations. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0. Ray Smith was appointed by acclamation for a term to expire in June 2004.

16. Consider and act upon the appointment of a qualified citizen to the Planning & Zoning Commission to fill the existing vacant position and complete the unexpired term. (City Secretary)

Council member Felker nominated Dave Wilcox. Council member West moved to close nominations. Council member Allen seconded the Motion. Motion carried. Vote: 6-0. Dave Wilcox was appointment by acclamation for a term expiring in June 2005.

17. Discussion of Board of Adjustments' attendance and arrival time. (City Council/MM)

Mayor Pro-Tem Maso asked for the item to be on the Council Agenda. Mayor Pro-Tem Maso stated that he felt that the attendance of the members of the Board of Adjustment is not acceptable. Mayor Simpson stated that if there are members on the board that have missed three meetings, and a Council Member wants to have them removed, then they should request an agenda item to do so on a future agenda item. Mayor Simpson stated his recommendation is to email the BOA members to let Staff know that they are or not going to be at the meeting. Mayor Simpson stated that he will draft a letter to be sent to the boards. Council member Felker stated he used to serve on the Board of Adjustment and he felt that there is

no excuse for members not to show up. Discussion only, no formal action was taken.

18. Consider and act upon adoption of a Resolution supporting the county bond election. (City Secretary)

Mr. Purefoy stated that the Bond Election is very important to the City of Frisco in transportation, facilities and open space. Following discussion, Council member Joyner moved to adopt **Resolution No.03-10-196R** therein supporting the Collin County Bond Election. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

19. Consider and act upon a Resolution authorizing the City Manager to enter into an Agreement by and between the City of Frisco and CCIM 1 Partnership for an exchange of property. Tabled 9/16/03 (City Manager's Office/SY)

Deputy Mayor Pro-Tem Lafata moved to remove the item from the table. Council member Felker seconded the Motion. Motion carried. Vote: 6-0.

Assistant City Manager Young stated they are still in negotiations and he requested the item be tabled until October 21, 2003. Council member West moved to **table until October 21, 2003**. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

20. Consider and act upon authorizing the City Manager to take all action necessary to lease or purchase property south of Maple Street, north or Pecan Street, west North/South County Road, east BNSF Railroad track. Tabled 9/16/03 (City Manager)

Mr. Purefoy recommended the item continued to be tabled. Deputy Mayor Pro-Tem Lafata moved to **table until October 21, 2003**. Council member Felker seconded the Motion. Motion carried. Vote: 6-0.

21. Consider and act upon adoption of a Resolution authorizing the City Manager to enter in to Memorandum of Completion of Obligations under Development Agreement by and between the City of Frisco and Mathesa I, Ltd. (City Manager)

Council member Felker moved to adopt **Resolution 03-10-197R**. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

22. Discussion regarding changing the polling location. (City Secretary)

No action.

23. Consider and act upon approval of a Resolution authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Preston Road Commercial Partners, Ltd. for the purchase of 17.7562 acres of

**land that is located at the intersection of Hickory Street and Preston Road.
Tabled 9/16/03(City Manager)**

Council member Allen moved to remove the item from the table. Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 6-0.

Mayor Pro-Tem Maso to **deny**. Council member Allen seconded the Motion. Motion carried. Vote: 6-0.

24. Discussion regarding Development Agreement with Lebanon Baptist Church. (City Manager)

Mr. Purefoy stated the item will be placed on the next Agenda (October 21, 2003). Mr. Purefoy stated they have requested escrow of funds for the lighting and the deceleration lane. Mr. Purefoy requested the Council, in recognizing the Church's donation of the Church to the Heritage Park, the city waive the fees. Discussion only, no formal action was taken. The Council was in agreement to **delay the payment of escrow** until the appraisal on the old church. Discussion only, no formal action was taken.

25. Discussion concerning proposal to lease Stewart Creek Estates Open Space for Park Improvements. (City Manager)

Mr. Purefoy updated the Council on the open space that is close to Stewart Creek Estates to be used for Park Improvements. Mr. Purefoy stated that he would like to bring an agreement back to the Council at the next meeting. Discussion only, no formal action was taken.

26. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the City Council to the Planning & Development Department, pursuant to Article IV, Section 1.07(C) of the Comprehensive Zoning Ordinance and/or Section 4.05 of the Subdivision Regulation Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or plat. Any written notice of appeal must be submitted to the Planning & Development Department.

Mayor Simpson asked about the Cluster Home Lots on one common area of land in Panther Creek Estates, Phase Six. Mr. Lettelier stated that it is a term used in the PD and they are similar to Patio Homes. Discussion only, no formal action was taken.

Council member Allen stated that he appreciated the reports that P&Z had taken action on.

27. City Council discussion with City Staff concerning any actions required by City Staff as a result of any item on tonight's agenda.

- Council member Felker asked that Board of Adjustment's appointment dates and asked Staff to double-check the attendance figures of the Board

of Adjustment as there appears to be conflict between the attendance reports and the minutes.

- Staff was instructed to schedule a meeting of the Governance Subcommittee.

28. Discussion on Governance Monitoring of present City Council Meeting.

Mayor Pro Tem Maso monitored the present meeting. He noted confusion on board appointments. He stated the Council reached most decisions within six minutes

29. Adjourn.

There being no additional business, the meeting was adjourned at 9:00 p.m.

E. Michael Simpson, Mayor

ATTEST:

Nan Parker, City Secretary